



THE AMBASSADOR

July 26, 2004

Your Excellency:

I refer you to recent discussions between representatives of the Government of the United States of America and the Government of the Sultanate of Oman regarding the surrender of persons to the International Criminal Court,

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Confirming that nothing in the Agreement hereinafter proposed provides impunity with regard to genocide, crimes against humanity and war crimes, and

Bearing in mind Article 98 of the Rome Statute,

I propose the following agreement:

1. For the purposes of this Agreement, "persons" of either Party include all nationals of that Party and, for the Government of the United States of America, also include current and former non-U.S. national U.S. military personnel with respect to acts or omissions allegedly committed or occurring before or while they are or were U.S. military personnel.
2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,
 - (a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or
 - (b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the Sultanate of Oman to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the Sultanate of Oman.
4. When the Government of the Sultanate of Oman extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the Sultanate of Oman will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.
5. Either Party may request consultations regarding cases of special interest to which this Agreement applies.
6. This Agreement shall remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the Sultanate of Oman, this letter and Your affirmative letter in reply shall constitute an agreement between our two Governments which shall enter into force on the date of Your letter in reply.

Yours sincerely,



Richard L. Baltimore III

His Excellency

Yusuf bin Alawi bin Abdullah,
Minister Responsible for Foreign Affairs,
Muscat, Sultanate of Oman.

Sultanate of Oman
Ministry of Foreign Affairs
The Minister

Ref: 1300/00/16266/2004

Date: August 1, 2004

H. E. the Ambassador:

I received your note dated July 27, 2004, which states as follows:

"Reference to recent discussions between representatives of the Government of the United States of America and the Government of the Sultanate of Oman with regard to the surrender of persons to the International Criminal Court,

Confirming the importance of bringing persons who commit crimes of genocide, crimes against humanity, and war crimes to justice,

Recalling that Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court intends to complement and not to supplant criminal jurisdiction,

Confirming that nothing in the proposed agreement provides immunity with regard to crimes of genocide, crimes against humanity and war crimes, and

Bearing in mind Article 98 of the Rome Statute,

I hereby propose the following:

1 - For the purpose of this agreement, "persons" of either Party include all nationals of that Party, and for the Government of the United States of America, the word "persons" includes in addition, all current and former non-U. S. nationals U. S. military personnel with respect to acts they allegedly committed or done, or with regard to acts occurring during the period of time they were U. S. military personnel, or during the preceding period of time.

2 - Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

- a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or
- b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender or transfer to the International Criminal Court.

3 - When the Government of the United States of America surrenders, extradites, or transfers a person of the Sultanate of Oman to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the Sultanate of Oman.

4 - When the Government of the Sultanate of Oman surrenders, extradites, or transfers a person of the United States of America to a third country, the Government of the Sultanate of Oman will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.

5 - Either Party can request consultations regarding cases of special interest to which the agreement applies.

6 - This Agreement shall remain in force until one year after the date on which one Party notifies the other of its intent to terminate it, and the provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination."

I have pleasure to assure you that the proposal set forth in your note is acceptable to the Government of the Sultanate of Oman, and further confirm to you that your referred note and this reply constitute an agreement effective the date of this note.

/s/

Yusuf bin Alawi bin Abdulla
Minister Responsible for Foreign Affairs

- H. E. Richard Baltimore

Ambassador of the United States of America Accredited to the Sultanate

For the Attention of the
Chief of Protocol Department
Ministry of Foreign Affairs

No. 747

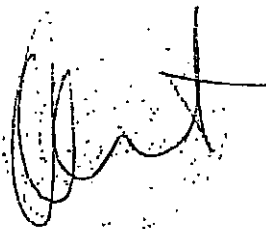
The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Sultanate of Oman and has the honor to refer to the Agreement effected by exchange of letters of July 26, 2004 and August 1, 2004, concerning the surrender of persons to the International Criminal Court.

During the negotiation of the Agreement, it was the understanding of the Government of the United States of America that the Agreement would apply, in addition to nationals of either country, to current and former non-U.S. national U.S. military personnel with respect to acts or omissions allegedly committed or occurring before or while they are or were U.S. military personnel. Therefore, the Agreement would apply to such non-U.S. national U.S. military personnel with respect to both alleged acts and failures to act.

The Embassy would appreciate the Ministry's confirmation that the Government of the Sultanate of Oman shares this understanding. This note and the Ministry's confirmation shall be considered to be an integral part of the Agreement.

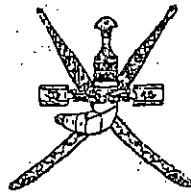
DIPLOMATIC NOTE

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Sultanate of Oman the assurances of its highest consideration.

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Embassy of the United States of America,

Muscat, August 17, 2004.



The Ministry of Foreign Affairs of the Sultanate of Oman presents its compliments to the Embassy of the United States of America and has the honor to refer to the Embassy's note number 747 dated August 17, 2004 regarding the Agreement effected by exchange of letters of July 26, 2004 and August 1, 2004, concerning the surrender of persons to the International Criminal Court.

The Ministry confirms that it is also the understanding of the Government of the Sultanate of Oman that the Agreement would apply, in addition to nationals of either country, to current and former non-U.S. national U.S. military personnel with respect to acts or omissions allegedly committed or occurring before or while they are or were U.S. military personnel. Therefore, the Agreement would apply to such non-U.S. national U.S. military personnel with respect to both alleged acts and failures to act.

This note and the Embassy's note shall be considered to be an integral part of the Agreement.

The Ministry avails itself of this opportunity to renew to the Embassy the assurances of its highest consideration.

A handwritten signature in dark ink, appearing to be 'M. Al-Musallami', is located below the text of the letter.

September 18, 2004